

U.S.S.N. 10/007,197
Filed December 4, 2001
AMENDMENT

Remarks

Rejections under 35 U.S.C. 103

Claims 1-3, 5-8, 11, and 13 were rejected under 35 U.S.C. 103(a) as obvious over U.S. Patent No. 5,082,653 to Pan, et al., in combination with U.S. patent No. 4,081,527 to Armstrong, et al., and U.S. patent No. 6,451,771 to Henderson, et al. This rejection is respectfully traversed.

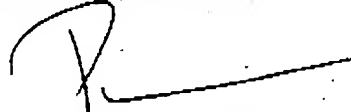
Claims 1 and 2 have been amended to more clearly exclude tetracycline and meclocycline. No other allegedly poorly absorbed tetracycline is disclosed in any of the art cited by the examiner. None of the art suggests making a mouthwash using a poorly absorbed tetracycline. Indeed, the only prior art relating to the use of a mouthwash, Pan, assumes that the antibiotic will have antibiotic activity and will be absorbed. In contrast, the claimed composition is used to treat mucositis, based on a completely different mechanism than antibiotic activity. Accordingly the claimed composition would not be obvious from the prior art. Armstrong describes an injectable material include 2-pyrrolidone as a solvent, and no relationship to a mouthwash. One skilled in the art would not look to Armstrong to develop a better composition to treat mucositis.

In summary, the art cited by the examiner fails to disclose the claimed composition nor lead one skilled in the art to the claimed composition. None of the prior art relates to treatment of mucositis, use of poorly absorbed tetracyclines, or formulations containing an effective amount of any compound to treat mucositis, much less of a poorly absorbed tetracycline.

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Claims 1-3, 5-8, 11 and 13 being patentable over the art, the examiner should now examine claims 4, 9, 10, and 14, drawn to non-elected species. It is believed that all of claims 1-14, as amended, are patentable over the cited art.

Respectfully submitted,



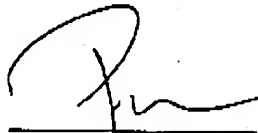
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CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that the enclosed Response to Restriction Requirement and all documents shown as being attached is being facsimile transmitted to the U. S. Patent and Trademark Office on the date shown below.

Date: September 11, 2003



Patrea Pabst

ATL1 #593641 v1